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FISCAL IMPACT STATEMENT

LS 7111

BILL NUMBER: SB 362

NOTE PREPARED: Jan 24, 2006

BILL AMENDED: Jan 19, 2006

SUBJECT: Collection of Delinquent Taxes.

FIRST AUTHOR: Sen. Ford

FIRST SPONSOR: Rep. Turner

BILL STATUS: As Passed Senate

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill provides for biennial renewal of a registered retail merchant's certificate. The bill provides that the Department of State Revenue (Department) must renew at no additional charge the registered retail merchant's certificate of a retail merchant who is current on the retail merchant's filing and remittance obligations. The bill also prohibits the Department from renewing the registered retail merchant's certificate of a retail merchant who is delinquent in remitting Sales or Use Tax.

The bill provides that the Department may levy on a person's property held by a financial institution without first obtaining a tax warrant after 10 days have elapsed after the date on which a demand notice is issued.

This bill provides that a county sheriff has 120 days to collect a judgment arising from a tax warrant. (Current law allows a county sheriff to continue collection efforts on the warrant for up to one year after the judgment lien is entered if the taxpayer is making periodic payments in sufficient amounts to satisfy the judgment within one year.)

The bill provides that if an apparent owner of unclaimed property is subject to an outstanding tax warrant, the Department may levy against the unclaimed property.

The bill also provides that a taxpayer who receives a proposed assessment must file a protest within 30 days after the date the notice is mailed. (Current law allows 60 days.) It provides that a taxpayer must appeal a letter of finding to the Tax Court within 45 days after the date on which: (1) the letter of finding is mailed, if the taxpayer does not request a rehearing on the letter of finding within 30 days; or (2) the Department of State Revenue issues a denial of the taxpayer's timely request for a rehearing on the letter of finding. (Current law

allows 180 days after the letter of finding is mailed.)

The bill also provides that interest on an excess tax payment that the Department of State Revenue does not refund or credit against a current or future tax liability within 90 days after: (1) the refund claim is filed; (2) the date the tax payment was due; or (3) the date the tax was paid; whichever is later, accrues interest from the date on which the refund claim is filed. (Current law provides that interest accrues from the later of the date on which the tax payment was due or the tax payment was paid.)

Effective Date: July 1, 2006; January 1, 2007.

Explanation of State Expenditures: This bill will increase administrative costs for the Department of State Revenue (DOR). The DOR will have to amend the registered retail merchant's certificate. The DOR will also have to re-register retail merchants who received their certificate before November 30, 2006, and will also have to set up a system to renew all merchant certificates upon expiration. Merchant's certificates do not expire under current law. It is anticipated that the provision of this bill could be implemented by the DOR within the level of existing staff and resources.

Protest and Appeal Deadlines: This bill provides that a taxpayer must appeal a letter of finding to the Tax Court within 45 days after the date on which: (1) the letter of finding is mailed, if the taxpayer does not request a rehearing on the letter of finding within 30 days; or (2) the DOR issues a denial of the taxpayer's timely request for a rehearing on the letter of finding. Current law allows 180 days after the letter of finding is mailed. This provision could decrease administrative costs to the DOR if the shorter deadlines result in less appeals going to the Tax Court.

Explanation of State Revenues: *Retail Merchant's Certificates:* The bill provides that retail merchant's certificates, which allow retailers to legally make a retail transaction in the state, expire every two years. The fee for a merchant's certificate is \$25. Under current law, these certificates do not expire. The bill also provides that the DOR may not renew a certificate of a retail merchant who is delinquent in remitting Sales or Use Tax, but the DOR must renew a certificate for free if the merchant has filed all returns and remitted all taxes. This provisions means that only those merchants who owe taxes at the time of renewal will have to pay the \$25 renewal fee, after paying the tax owed. Therefore, there will be an increase in the amount of fees collected by the DOR in issuing these certificates. The amount of the increase is unknown. These fees are deposited in the state General Fund.

Income Tax Withholding: The bill provides that the DOR may require an entity that is not withholding, reporting, or remitting their taxes in accordance with IC 6-3-4 to make periodic deposits during the reporting period, and file information returns with those deposits. This provision will only affect Individual Income Tax revenues to the extent that it allows the DOR to collect these withholdings in a more timely manner. By collecting early or on time, the DOR would get these fund deposited more quickly, which would allow a longer time for these funds to be invested and earn interest.

Levy Against Property Held by a Financial Institution: The bill provides that the Department may levy on a person's property held by a financial institution 10 days after the date on which a demand notice is issued for an outstanding tax liability. Under current law the DOR would first have to file a tax warrant to levy against a person's property held by a financial institution. This provision will only affect tax revenues to the extent that it allows the DOR to collect these liabilities in a more timely manner. By collecting earlier, the DOR would get these funds deposited more quickly, which would allow a longer time for these funds to be invested and earn

interest.

Collections by County Sheriffs: This bill provides that a county sheriff has 120 days to collect a judgment arising from a tax warrant. Current law allows a county sheriff to continue collection efforts on the warrant for up to one year after the judgment lien is entered if the taxpayer is making periodic payments in sufficient amounts to satisfy the judgment within one year. This provision will only affect tax revenues to the extent that it allows the DOR to collect these liabilities in a more timely manner. By collecting earlier, the DOR would get these funds deposited more quickly, which would allow a longer time for these funds to be invested and earn interest.

Levy Against Unclaimed Property: The bill provides that the DOR may levy against the unclaimed property if an apparent owner of unclaimed property is subject to an outstanding tax warrant. This provision will only affect tax revenues to the extent that it allows the DOR to collect these liabilities in a more timely manner. By collecting earlier, the DOR would get these funds deposited more quickly, which would allow a longer time for these funds to be invested and earn interest. This provision could also shift funds from the Abandoned Property Fund to funds which receive a distribution from the tax which is the subject of the tax warrant.

Interest Accrual Date on Overpayment of Taxes: This bill provides that interest on an excess tax payment that the DOR does not refund or credit against a current or future tax liability within 90 days after: (1) the refund claim is filed; (2) the date the tax payment was due; or (3) the date the tax was paid; whichever is later, accrues interest from the date on which the refund claim is filed. Current law provides that interest accrues from the later of the date on which the tax payment was due or the tax payment was paid. This provision will only decrease state revenues if interest on overpayments actually begins to accrue at an earlier date and accrues for a longer period of time. The impact of this provision will ultimately be determined by the administrative actions of the DOR.

Explanation of Local Expenditures:

Explanation of Local Revenues: *Collections by County Sheriffs:* Sheriffs receive a 10% collection fee for liabilities collected. This fee could be impacted to the extent that disallowing one year payment plans lowers the amount of collections by the sheriffs. If a sheriff has entered into a salary contract, these fees are deposited in the county general fund. Otherwise, they are compensation to the sheriff.

State Agencies Affected: Department of State Revenue.

Local Agencies Affected: County sheriffs.

Information Sources:

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